



UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT CIVIL APPEALS MEDIATION PROGRAM (CAMP)

POLICIES AND PROCEDURES

Reference: Federal Rules of Appellate Procedure Rule 33 and Local Rule 33.1 authorize the Court to direct counsel in civil appeals and their clients to participate in CAMP “to explore the possibility of settlement, narrow the issues, and discuss any matters that may expedite the disposition of the appeal.”

Case Selection: All counseled, civil appeals are eligible for mediation under Local Rule 33.1, except for a very limited category as set forth in the Local Rule. CAMP screens all eligible cases to further assess whether mediation may be suitable.

Participation: The CAMP process is mandatory for both clients and counsel if the Court orders it; nonetheless, any result reached in mediation is dependent upon the consent of the parties. If the Court does not order mediation, CAMP will consider requests from parties for mediation. Generally, mediations are conducted in-person if the attorneys of record are within commuting distance of the courthouse. Otherwise, the conferences are conducted by telephone on our customized conference software. A confidential pre-mediation statement is encouraged, but optional. Three hours generally should be allotted for the mediation.

Mediators: CAMP has two full-time circuit mediators and a panel of experienced and trained court-appointed mediators, who serve on a pro bono basis. All mediators check for conflicts of interest before accepting assignments.

Confidentiality: To encourage open, frank, and effective discussion of matters on appeal, all participants in the mediation process are expected to adhere to Local Rule 33.1(e), which provides that “[i]nformation shared during a CAMP proceeding is confidential and is not included in court files or disclosed to the judges of this court except to the extent disclosed by an order entered as a result of a CAMP proceeding. The attorneys and other participants are prohibited from disclosing what is said in a CAMP proceeding to anyone other than clients, principals or co-counsel, and then, only upon receiving due assurance that the recipient will honor confidentiality.”

Briefing Schedule: Participation in CAMP does not alter the briefing schedule and is not an excuse for failing to meet deadlines therein. If additional time is needed to actively pursue or formalize a settlement, an inquiry should be made to the mediator about the applicability of a Local Rule 42.1 stipulation.

Settlement: To protect confidentiality, CAMP policy is that if a settlement is reached, any agreement must be reduced to writing and fully executed before it is binding upon any parties. Counsel are expected to file a stipulation of dismissal of the appeal pursuant to FRAP 42(b) once the settlement agreement has been executed.

Survey: To promote process improvement, upon conclusion of the mediation process, a survey will be sent to counsel.